

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

JOSEPH KELLY

CIVIL ACTION NO. 3:22-cv-109_

Plaintiffs

-vs-

**TERRY CARNAHAN
CHEESEMANN, INC.**

Defendants

COMPLAINT

NOW INTO COURT, through undersigned counsel, comes **JOSEPH KELLY**, domiciled in Acadia Parish, Louisiana, who with respect represents:

1.

Made defendants herein are:

- A. **CHEESEMANN, INC.** a foreign company doing business within the State of Tennessee which employed **TERRY CARNAHAN**, owned the truck involved in the subject accident which is the basis of this petition, and is domiciled at 2200 SR-119, Fort Recovery, OH, 45846; and
- B. **TERRY CARNAHAN**, believed to be a person of the full age of majority domiciled at 12880 Randomwood Drive, Laurinburg, NC 28352.

2.

This Court has jurisdiction based on diversity of citizenship pursuant to 28 U.S.C. § 1332 (a)(1).

3.

The amount in controversy in this cause of action exceeds \$75,000.00.

4.

Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2).

5.

All Defendants are subject to the jurisdiction of this Court.

6.

On or about July 13, 2021, Plaintiff, **JOSEPH KELLY**, was operating his 2012 Peterbuilt tractor-trailer in a safe and prudent fashion when he came to a stop at 304 Howard Baker Highway, in Caryville, Tennessee. Plaintiff **JOSEPH KELLY** was legally and appropriately parked in a lot designated for overnight parking.

7.

After Plaintiff **JOSEPH KELLY** came to a stop, he stood up to move into sleeper portion of his cab, when suddenly and without warning, **TERRY CARNAHAN** reversed and crashed his 2017 International tractor-trailer (owned by **CHEESEMANN, INC.**) into the rear of **JOSEPH KELLY's** vehicle, causing Plaintiff to be jolted forward into the dash in the cab of his vehicle, and resulted in injuries.

8.

Damages suffered by Petitioner, **JOSEPH KELLY** resulted from the fault and/or negligence of defendant **TERRY CARNAHAN** (while in the course and scope of his employment for **CHEESEMANN, INC.**) in the following non-exclusive particulars:

- A. Improper backing;
- B. Failing to see what he should have seen;
- C. Careless operation of a motor vehicle;
- D. Not paying attention while operating a motor vehicle;
- E. Failure to keep a proper lookout;
- F. Failure to yield; and
- G. Any and all other acts of negligence and/or legal fault which will be proved at the trial on the merits.

9.

CHEESEMANN, INC. as employer of **TERRY CARNAHAN**, is responsible for his negligent acts and/or omissions under the theory of *respondeat superior*.

10.

As a result of the above described collision, petitioner, **JOSEPH KELLY**, sustained serious and permanent injuries that resulted in general and special damages including but not limited to past and future physical and mental pain and suffering, past and future loss of earnings

and loss of earning capacity, that necessitated that he incur past and future medical expenses, past and future expenses for his personal care and services, past and future disability, past and future disfigurement, past and future loss of enjoyment of life, property damage to vehicle with lost use and diminished value, and any and all other damages available under the law, all of which entitle him to recover a sum reasonable in the premises.

WHEREFORE, petitioner, **JOSEPH KELLY** prays that a certified copy of this complaint be served upon defendants, **CHEESEMAN, INC.** and **TERRY CARNAHAN**, and that after due proceedings are had there be judgment herein in favor of petitioner, **JOSEPH KELLY** and against defendants **CHEESEMAN, INC.** and **TERRY CARNAHAN** jointly, severally and in *solido* for a fair and reasonable sum to be determined by a jury, in the premises together with interest from the date of judicial demand until paid and for all costs of these proceedings, and for all equitable relief available under the law.

Respectfully Submitted,

BROUSSARD & DAVID, L.L.C.

/s/ J. Derek Aswell

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